



Wisconsin's "Safe Haven" Law

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Like other states,¹ Wisconsin's child welfare laws include a "safe haven" law, which allows a parent to relinquish custody of a newborn child in a manner that provides immediate care for the child's health and safety. Wisconsin's safe haven law grants the relinquishing parent, and any person assisting the parent, both anonymity and immunity from liability, and further specifies certain protections for, and procedures that must be followed by, the person to whom the parent relinquishes the child. This issue brief outlines the requirements under and protections afforded by Wisconsin's safe haven law,² and the subsequent child welfare procedures that may apply.

RELINQUISHMENT

Under Wisconsin's safe haven law, a child whom a law enforcement officer, emergency medical services (EMS) practitioner, or hospital staff member reasonably believes to be 72 hours of age or younger may be taken into custody if the child's parent relinquishes custody of the child to that professional and does not express an intent to return for the child. Alternatively, a parent may dial 911 to dispatch a law enforcement officer or EMS practitioner to meet the parent and take the child into custody, if the parent is unable to travel to a sheriff's office, police station, fire station, hospital, or other place where a law enforcement officer, EMS practitioner, or hospital staff member is located. The person who takes custody of a child must take any action necessary to protect the child's health and safety and, within specified timelines, deliver the child to an intake worker of the county social services department and file a birth record for the child.³

ANONYMITY

A parent relinquishing a child, and any person who assists the parent in that relinquishment, generally has the right to remain anonymous. The safe haven statute prohibits acts of inducing or coercing, or attempting to induce or coerce, the parent or person assisting the parent into revealing his or her identity. The relinquishing parent, or a person assisting that parent, may leave the presence of the person who took custody of the child at any time, and no person may follow or pursue the parent, or attempt to locate or ascertain the identity of the parent or the person who assists the parent. However, none of these protections apply if there is reasonable cause to believe that the child has been the victim of abuse or neglect or that a person assisting the parent is coercing the parent to relinquish the child.⁴

The person taking custody of the child must inform the parent and assisting person of these rights to anonymity. However, if a parent voluntarily provides identifying information, the person taking custody of the child must make a reasonable effort to obtain the following information: (a) the social and health history of each parent of the newborn, and of the families of each parent; (b) the ethnicity and race of the newborn, including whether the newborn is of American Indian heritage and, if so, any tribal affiliation; and (c) the name, address, telephone number, and any other identifying information of each parent, and any person assisting a parent in the relinquishment.⁵

The person taking custody of the child must make available to the parent certain [information](#) on relinquishment and a [questionnaire](#), both published by the Department of Children and Families (DCF), as well as a toll-free telephone number providing access to various maternal health information. However, the parent's decision as to whether to accept this information is voluntary.⁶

CONFIDENTIALITY

A person who obtains any information regarding a relinquishment must keep that information confidential and may not disclose the information, except to certain specified recipients. Examples of authorized recipients of otherwise confidential information include adoptive and foster parents, agency staff, and court personnel.⁷

IMMUNITY FROM LIABILITY

A parent who relinquishes a child in conformity with the safe haven law is immune from any civil or criminal liability for any good faith act or omission in connection with that relinquishment, including immunity for exercising the right to remain anonymous, the right to leave at any time, and the right not to accept any information, as well as immunity from prosecution of the crimes of abandoning or neglecting a child.⁸

In addition, any law enforcement officer, EMS practitioner, or hospital staff member who takes custody of a relinquished child in conformity with the safe haven law is immune from any civil liability to the child's parents, or criminal liability for any good faith act or omission occurring solely in connection with the act of taking custody of the child from the child's parents. However, such professionals are not immune from liability for acts or omissions that occur when subsequently caring for the child.⁹

CHILD WELFARE INVOLVEMENT AFTER RELINQUISHMENT

Once the person to whom the child was relinquished delivers the child to the county intake worker, the local child welfare agency is responsible for, and the Children's Court has exclusive jurisdiction over, the relinquished child. Because relinquishment under the safe haven law constitutes an independent ground for finding a child in need of protection or services (CHIPS), the intake worker may request that a CHIPS petition be filed by the prosecuting authority. If ordered, a CHIPS finding based on relinquishment is also a ground for involuntary termination of parental rights (TPR).¹⁰

If, after relinquishment, the parent wishes to be identified, the parent may contact the social services department of the county in which the relinquishment occurred. However, custody of a relinquished child may not be returned to a parent or transferred to any other person, except as contemplated under the safe haven procedures or by court order.¹¹ If a parent of a relinquished child seeks to reclaim custody and a TPR order has not been entered, the local child welfare agency will obtain genetic tests to confirm parentage, undertake a thorough investigation to, in part, identify the factors contributing to the relinquishment and assess any threat of danger or risk of maltreatment if the child is returned to the parent and placed in his or her home, and determine the need for continued protection or services.¹²

¹ For more information about other states' safe haven approaches, see Child Welfare Information Gateway, [Infant Safe Haven Laws](#), U.S. Department of Health and Human Services, Administration for Families, Children's Bureau (2022).

² According to the Department of Children and Families (DCF), as of December 2021, there had been 114 documented cases of newborn children relinquished under the safe haven law since 2015, with 22 being the most documented in one year.

³ ss. 48.195 (1), 48.20, and 69.14 (3), Stats.; ss. DCF 39.05 and 39.07, Wis. Adm. Code. The person to whom the child was relinquished must contact law enforcement if the person believes: (a) the relinquishing person is not the child's parent; (b) the child is more than 72 hours of age; (c) the child has been abused or neglected; or (d) the parent relinquishing the child is being induced or coerced into relinquishing the child. [s. DCF 39.09 (4), Wis. Adm. Code.]

⁴ s. 48.195 (2) (a) to (c), Stats.; s. DCF 39.08 (1) to (3), Wis. Adm. Code.

⁵ ss. DCF 39.08 (5) (a) and 39.09 (1), Wis. Adm. Code.

⁶ s. 48.195 (3), Stats.; s. DCF 39.09 (1) and (2), Wis. Adm. Code. DCF also publishes [these instructions](#) for the person accepting a relinquished child.

⁷ s. 48.195 (2) (d), Stats.; s. DCF 39.08 (4), Wis. Adm. Code.

⁸ s. 48.195 (4) (a), Stats.

⁹ s. 48.195 (4) (b), Stats.

¹⁰ ss. 48.13 (2m), 48.24, 48.25, and 48.415 (1m), Stats.; ss. DCF 39.06 and 39.09, Wis. Adm. Code.

¹¹ s. 48.195 (6), Stats.; ss. DCF 39.06, 39.07 (5) (b), and 39.11, Wis. Adm. Code.

¹² For more information on statewide standards governing relinquishments and reclaiming a relinquished child, see DCF, [Child Protective Services Access & Initial Assessment Standards](#), Section 2, Part XXIV (April 2021). [See, s. 48.981 (3) (c) 1. a., Stats. (requiring abuse and neglect investigations to be conducted in accordance with standards established by DCF).]